IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.680 OF 2005
IN
EXECUTION APPLICATION NO.113 OF 2002
IN
SUIT NO.421 OF 1994

Amar Tea Pvt. Ltd.).. Plaintiffs

Versus

INDEC Equipment Pvt. Ltd.).. Defendants

And

Anil Malhotra).. Applicant

Mr.Piyush Shah for the Plaintiffs.

Mr.Swapnil Shah i/b.Bhaskar & Co. for the Applicant.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 21ST DECEMBER 2005

P.C.:

. This Chamber Summons has been moved for raising the attachment levied on the property situate at 105, Veena Industrial Estate, Off Veera Desai Road, Andheri (West), Mumbai 400 058. The attachment was levied pursuant to the decree passed by this Court in favour of the Plaintiffs against the Defendants for recovery of sum of Rs.3,01,304.81. The premises in question, according to the Applicant are ownership premises, owned by the Applicant. The business of the Defendants was being run

from these premises as they were tenants of the Applicant. The office of the Defendant Company was shifted to Gala No.3, Khalil Compound, Kherani Road, Sakinaka, Mumbai 400072 by resolution dated 2nd May 2001. According to the Applicant, although he is one of the Directors of the Defendant Company, he is the sole proprietor of Skabama Agency. The Defendant Company has no right, title, interest or any claim in the ownership of these premises and, therefore, it is prayed that the attachment levied on these premises should be raised.

2. An Agreement of Sale dated 14th June 1982 between M/s.P. Royal Corporation and M/s.Skabama Agency has been annexed. This Agreement indicates that Skabama Agency has purchased Unit No.105 on the first floor of Veena Industrial Estate for a consideration of Rs.1,42,500/-.

3. A letter has been issued by the Advocates and Solicitors of the Vendor indicating that the agency had purchased the property. The share certificate issued by Veena Industrial Premises Co-operative Society Limited indicates that it has been issued to M/s.Skabama Agency in respect of Unit No.105 on 1st January 1985. Further, documents which are annexed to the Chamber Summons also show that the maintenance and other charges are charged to Skabama Agency and a receipt has been issued to Skabama Agency by the society.

4. In reply, the Plaintiffs have denied that the premises belonged to the agency. The main contention raised on behalf of the Plaintiffs is that since the Director of the Defendants was the sole proprietor of Skabama Agency, it is obvious that the Defendants had an interest in those premises. In my view, the submission made by the learned Counsel for the Plaintiffs is unfounded. Merely because a person is a sole proprietor of a particular entity it would not necessarily mean that the premises which belonged to the sole proprietary concern would automatically become an asset of the Company in which the sole proprietor is a Director. In my view, therefore, the Chamber Summons must be allowed.

5. Chamber Summons allowed in terms of prayer clauses (a) and (b).

6. Chamber Summons disposed of accordingly.